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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,577	12/21/2001	Peter Schertl	Mo6856/LeA 33,769	1797
157	7590	02/14/2005	EXAMINER	
BAYER MATERIAL SCIENCE LLC 100 BAYER ROAD PITTSBURGH, PA 15205			RABAGO, ROBERTO	
			ART UNIT	PAPER NUMBER
			1713	
DATE MAILED: 02/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/019,577

Applicant(s)

SCHERTL ET AL.

Examiner

Roberto Rábago

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-11, 13-17, 19-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5, 7, 10, 11, 13-17, 19, 21 and 23 is/are rejected.
- 7) ☒ Claim(s) 2, 4, 8, 9 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Claims 5, 10 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Granel et al. (US 5,869,583) for the reasons set forth in item 3 of the Office action mailed 7/21/2004.

Applicant's arguments filed 1/21/2005 have been fully considered but they are not persuasive. Applicants argument is not effective because it argues limitations which are not found in the claims. Specifically, applicants assert that the reference fails to disclose a specific set of polymerization monomers; however, the claims are directed solely to a catalyst composition, and contain no limitations regarding monomers.

2. Claims 5, 7, 16, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Chabert et al. (US 3,985,718) for the reasons set forth in item 4 of the Office action mailed 7/21/2004.

Applicant's arguments filed 1/21/2005 have been fully considered but they are not persuasive. Applicants state that the cited reference compound fails to include ligand Q. However, applicants' argument fails to realize that the 3 acetylacetonate groups in ferric acetylacetonate satisfy the criteria for both the L and Q ligands. As noted previously, arguments regarding monomer selection are irrelevant to these claims.

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3. Claims 5, 7, 16, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Foucher et al. (US 5,744,560) for the reasons set forth in item 5 of the Office action mailed 7/21/2004.

Applicant's arguments filed 1/21/2005 have been fully considered but they are not persuasive. As noted previously, arguments regarding monomer selection are irrelevant to these claims.

Claim Rejections - 35 USC § 103

4. Claims 7 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granel et al. (US 5,869,583) for the reasons set forth in item 6 of the Office action mailed 7/21/2004.

Applicant's arguments filed 1/21/2005 have been fully considered but they are not persuasive. As noted previously, arguments regarding monomer selection are irrelevant to these claims.

5. Claims 1, 3, 10, 11, 13-15 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chabert et al. (US 3,985,718) for the reasons set forth in item 7 of the Office action mailed 7/21/2004.

Applicant's arguments filed 1/21/2005 have been fully considered but they are not persuasive. Applicants state that the cited reference compound fails to include the required transition metal compound. However, applicants' argument fails to realize that

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the 3 acetylacetonate groups in ferric acetylacetonate satisfy the criteria for both the L and Q ligands.

6. Claims 1, 3, 10, 11, 13-15 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foucher et al. (US 5,744,560) for the reasons set forth in item 8 of the Office action mailed 7/21/2004.

Applicant's arguments filed 1/21/2005 have been fully considered but they are not persuasive because they have entirely ignored previously cited disclosure in the reference which suggests the claimed monomer combinations. A reference is not limited to the specific embodiments of the working examples, but for what it suggests to those of ordinary skill in the art. The reference disclosure to make styrene copolymers of butadiene or isoprene is just such a suggestion, for which applicants have provided no traversal.

Allowable Subject Matter

7. Claims 2, 4, 8, 9 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The references cited on this record have not disclosed these particular cocatalysts or the specified insertion polymerization method.

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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

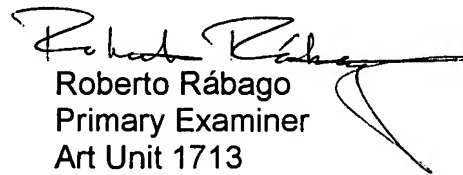
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roberto Rábago
Primary Examiner
Art Unit 1713

RR
February 9, 2005